

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff/Respondent,

vs.

Levian D. Pacheco,

Defendant/Movant.

No. CV-21-01959-PHX-SPL

(No. CR-17-01152-01-PHX-SPL)

ORDER

Movant Levian D. Pacheco has filed a Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to 28 U.S.C. § 2255 (“Motion”) (Doc. 1). The Honorable John Z. Boyle, United States Magistrate Judge, has issued a Report and Recommendation (“R&R”), recommending that the Court deny the Motion (Doc. 9). Judge Boyle advised the parties that they had fourteen (14) days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. (Doc. 9 at 9); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not... require any review at all... of any issue that is not the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.”). The Court has nonetheless reviewed the R&R and finds that it is well-taken. The Court will

1 adopt the R&R and deny the Motion. *See* 28 U.S.C. § 636(b)(1) (stating that the district
2 court “may accept, reject, or modify, in whole or in part, the findings or recommendations
3 made by the magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject,
4 or modify the recommended disposition; receive further evidence; or return the matter to
5 the magistrate judge with instructions.”). Accordingly,

6 **IT IS ORDERED:**

7 1. That Magistrate Judge John Z. Boyle’s Report and Recommendation (Doc. 9) is
8 **accepted** and **adopted** by the Court;

9 2. That the Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal
10 Custody pursuant to 28 U.S.C. § 2255 (CV-21-01959-PHX-SPL, Doc. 1; CR-17-01152-
11 01-PHX-SPL, Doc. 356) is **denied**;

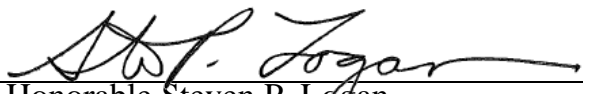
12 3. That this case is **dismissed with prejudice**;

13 4. That a certificate of appealability and leave to proceed *in forma pauperis* on
14 appeal are **denied**;

15 5. That the Clerk of Court shall file this Order in the underlying related criminal
16 action, Case No. CR-17-01152-01-PHX-SPL; and

17 6. That the Clerk of Court shall enter judgment accordingly and **terminate** this
18 action.

19 Dated this 18th day of August, 2022.

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21 
22 Honorable Steven P. Logan
23 United States District Judge
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